65

IN THE HIGH COURT OF KARNATAKA AT BANGALORE.

Dated this the 16th day of April, 1998.

BEFORE

HON'BLE MR. JUSTICE S.R. VENKATESHA MURTHY

H.R.R.P. NUMBER 95 of 1996.

Between:-

Sri.E.Narayanaba
aged about 45 years,
S/o Gujarathi Eswara Sa
M/s. Jagadheesh Textiles,
No. 497, 80 Ft Main Road,
Rajajinagar,
Bangalore-10.

PETITIONER.

(Sri.V.B. Shiva Kumar for petitioner)

And:-

Sri. P.Venkatasubbaiah,
Aged about 60 years,
s/o Narayana Shetty,
Residing in first floor of
premises No. 497, 30 Feet Road,
III Block, Rajajinagar,
Bangalore-10.

RESPONDENT.

(Sri. Yoganarasimha for respondent)

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This H.R.R.P is filedu/s. 50(1) of the K.R.C. Act against the order dated 14-11-1995, passed in HRC No. 713 of 1991 on the file of the Court of the First Addl. Judge, Court of Small Causes, Bangalore, allowing the petition filed u/s. 21 (1)(h) of KRC Act.

This revision being reserved for orders this day, the Court made the following:-

ORDER

This is a tenant's Revision challenging order of his eviction under section 21 (1) (h) of the Karnataka Rent Control Act (here-inafter called the Act).

2. The parties are referred to accord-ing to their array in the trial court.

3. The petitioner who is the owner of the schedule shop sought eviction of the respondent under section 21 (1)(h) of the Act alleging that his son Venkataramana, who is presently employed in a private firm earn-ing about Rs.800/- per month and residing separately, is unable to make both the ends meet and that with a view to securing him greater stability in life, he want the schedule premises for setting up a book shop. The respondent who is running a textile busines, would not suffer any hardship by

being evicted from the premises. The respondent denied the claim of the petitioner alleging that the claim for eviction is obliquely moti-vated by reason of a demand for enhancement of rent to Rs.600/- and advance to Rs.30,000/-. He claims that he has been a tenant of the premises since the year 1971 and has a large family of 3 daughters and two sons to maintain and, therefore, would be put to hardship, in the event of an eviction; whereas the peti-tioner would not suffer any hardship.

4. The evidence was tendered by both the parties regarding the merits of the case. The trial court found that the requirement of the petitioner was reasonable as well as bona-fide and that the respondent would not suffer any hardship by being evicted from the premises. Consequently, eviction from the premises was ordered.

5. The case sought to be made out by the petitioner is that the schedule

premises is part of complex of shops constructed by the petitioner. The petitioner's son Venka-
-taramana, after marriage, began to reside separately. On account of meagre earnings, he is not able to make both the ends meet and therefore petitioner wants to set him up in business, so that, he can be com-
-fortable. The trial court found that the claim of the petitioner was both reasonable and bona-
-fide. Having gone through the evidence on record, I am of the opinion that the appreciation of evidence by the trial court cannot be faulted. The oblique motive suggested by the respondent for securing his eviction has been rightly found against the respondent-tenant, as there is virtually no evidence worth the name supporting the plea of the oblique motive set up. Though the evidence on record indicated the existence of four shops, there has not been any evidence to show that any of the shop of the petitioner became vacant after the need was felt by the petitioner. It cannot be contended by the teanant that the peti-
-tioner cannot put forward the need of a major

son who is residing separately having regard to the decision of this Court in DR. SYED SIBGATULLAH VS. ABDUL A KHAN (ILR 1982 (1) Kar.L.J. P. 463) wherein this Court has clearly enunciated that even the need of a major son could come within the expression "occupation by himself". If the father seeks to set up a son on a firm footing in life by providing him the building and the requisite finance to set up a business, it cannot be said that the occupation of the son is not the occupation of the father. The attitude is consistent with the notion of the family life of the parties to the proceedings. Therefore, the need put forward by the petitioner cannot be negatived on any ground.

6. The trial court found that the respondent--tenant would not be put to any hardship by being evicted from the premises. Indeed when the need is found to be reasonable as well as bonafide there is no way by which hardship would be found against the petitioner, especially when the

respondent-tenant has been in occupation of the premises for over 26 years and has sustained himself. The respondent cannot plead that he cannot move out to another locality by reason of his business for such a length of time. Such a contention is untenable is clear from the decision of this Court in 1971(2) Mys.L.J. P. 29 (T.N. SHANKARA RAO'S CASE) . The respondent at best can seek some reasnable time to vacate the premises, especially in the background of the pendency of the case for the last 7 years. The finding recorded by the trial court against the respondent is correct and is not liable to be set aside. While dismissing the Revision, the respondent-tenant is granted time till the end of December 1999 to surrender vacant possession of the premises, subject to the condition that the respondent files an affidavit before the trial court in four

weeks that he would surrender vacant posse-
-ssion of the premises on the stipulated date
without inducting any other person into the
premises and subject to the further condi-
-tion that the rents due are paid promptly
and regularly and on failure to pay any two
months'rent, the respondent would be liable
to be evicted from the premises without
regard to the time granted as above.

Sd/-
JUDGE

PV.